

**TENNESSEE BOARD OF PHARMACY  
JANUARY 18, 2005  
ROOM 160 – DAVY CROCKETT TOWER  
NASHVILLE, TN**

**BOARD MEMBERS PRESENT:**

Reggie Dilliard, President  
Julie Frazier, Vice President  
Sheila Mitchell, Member  
James Mitchell, Member  
Monica Franklin, Public Member  
Todd Bess, Member  
Robert Shutt, Member

**STAFF PRESENT:**

Kendall Lynch, Director  
Alison Z. Cleaves, Chief Legal Counsel  
Martha Agee, Board Administrator  
Terrence Cannada, Pharmacist Investigator  
Harry Fuqua, Pharmacist Investigator  
Terry Grinder, Pharmacist Investigator  
Richard Hadden, Pharmacist Investigator  
Ralph Staton, Pharmacist Investigator

The Tennessee Board of Pharmacy convened on Tuesday, January 18, 2005, in Room 160 of the Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee. A quorum of the members being present, the meeting was called to order at 9:00 a.m. CST by Dr. Reggie Dilliard, President. Dr. Dilliard expressed his appreciation to the members of the Board for allowing him the opportunity to serve as President.

**APPROVAL OF THE MINUTES**

The **minutes of the November 16 - 17, 2004** board meeting were presented and reviewed by the Board. Dr. Todd Bess noted on page 13, WedMD's should be reflected as **WebMD's**. Dr. Julie Frazier noted on page 10, complaint #13, L03-PHR-RBS-200315914, Diovan HCT 10/12.5 is not manufactured in that strength and should be corrected to **80/12.5**. Dr. Robert Mitchell motioned to **approve** the minutes as amended; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**CONSENT ORDERS**

**JAMES R. BECK, DPH  
3012 Arbor Terrace Drive  
Kingsport, TN 37660**

**DAVID B. STRIPLING, DPH  
2206 Sulphur Spring Road  
Murfreesboro, TN 37129**

Chief legal counsel, Mrs. Alison Cleaves, presented the above referenced Consent Orders for the indefinite suspension of Dr. James Beck's and Dr. David Stripling's license due to admitting being chemical dependent. Dr. Robert Mitchell motioned to **accept** the Consent Orders; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

Tennessee Board of Pharmacy  
January 18, 2005

**STEVEN MATTHEW WALL, DPH**  
**109 Dominion Drive**  
**Burns, TN 37029**

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order for the Reinstatement of License for Dr. Steven Wall. Dr. Sheila Mitchell motioned to **accept** the Consent Order for Reinstatement; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**NATHAN BURCH TUCKER, DPH**  
**1013 Heritage Woods Drive**  
**Hendersonville, TN 37075**

Chief legal counsel, Mrs. Alison Cleaves, presented a Consent Order for Probation whereas on or about June 29, 2004, Dr. Nathan Tucker admitted to taking merchandise for approximately one (1) year from the Publix Pharmacy #182 and paid for it at a later time; he failed to charge the retail price for some medications when the patient was on a fixed income or for himself, his family or his friends; and that Dr. Tucker delivered medications to his patients or family members and received full payment at a later date. Dr. Tucker's license shall be placed on a one (1) year term of probation during which time he shall abide by the following conditions.

1. Shall not fill his own prescriptions;
2. Shall not fill any prescriptions for his family members;
3. Shall keep the Board of Pharmacy informed of his place of employments; and,
4. Shall inform each pharmacist-in-charge at the pharmacy where he is employed that he is on one (1) year probation with the Board.

Dr. Julie Frazier motioned to **accept the Consent Order for Probation**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

**TAMARA CHETAY BELL, RT**  
**2609 Beltline Cove**  
**Memphis, TN 38111**

**KRISTY D. HOLLIDAY, RT**  
**2777 Sonoca Drive**  
**Memphis, TN 38115**

**KEVIN G. SMITH, RT**  
**420 Smith Road**  
**Kingsport, TN 37763**

Mrs. Alison Cleaves, chief legal counsel, presented Consent Orders for the above referenced registered pharmacy technicians, who agreed to the revocation of their license due to the diversion of controlled

Tennessee Board of Pharmacy  
January 18, 2005

substances from the pharmacy without a prescription. Dr. Julie Frazier motioned to **accept** the Consent Orders; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

## **WAIVERS**

**JERRY L. BARRETT, DPH**  
**2012 Linwood Circle**  
**Soddy Daisy, TN 37379**

Dr. Jerry Barrett is requesting a waiver of Rule 1140-5-.01 and consideration for approval of six (6) hours of Live ACPE continuing education which he attended on March 10, 2004 to apply towards the renewal period for May 1, 2006 – April 30, 2008. Dr. Sheila Mitchell motioned to **deny** the waiver; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

**JAMIE MASON, DPH**  
**ECKERD PHARMACY #6614**  
**2485 Memorial Boulevard**  
**Murfreesboro, TN 37129**

Dr. Jamie Mason is requesting a Modification to the Consent Order he entered into on May 15 -16, 2002, whereas after a period of two years he may petition the Board relevant to being the Pharmacist-in-Charge. Dr. Julie Frazier motioned to **approve** the Modification; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

**YEN MERICLE, DPH**  
**2224 NW 135<sup>th</sup> Terrace**  
**Gainesville, FL 32606**

Dr. Yen Mericle is requesting a waiver of Rule 1140-1-.07 (3) (c) (3) relevant to taking the NAPLEX exam for the reinstatement of her pharmacist license. Dr. Mericle was originally licensed by examination in Tennessee in July, 1992, for approximately one (1) year, and moved to Florida and retok the NAPLEX. Dr. Mericle did not receive the Board's letter regarding the 1998 rule changes. Dr. Robert Shutt motioned to **approve** the waiver; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

Tennessee Board of Pharmacy  
January 18, 2005

**RON SHERRILL, DPH**  
**OMNI HEALTH CARE PHARMACY**  
**4105 Hickory Hill Road #103**  
**Memphis, TN 38115**

Dr. Ron Sherrill is requesting a waiver of Rule 1140-1-.12 (3) (d) relevant to the minimum one-hundred and eighty (180) square footage requirement for a pharmacy. Omni Health Care currently occupies approximately one-hundred and sixty (160) square feet. Dr. Robert Mitchell motioned to **approve** the waiver request; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**DONALD L. TALLEY, DPH**  
**711 Wildwind Trail**  
**Chattanooga, TN 37421**

Dr. Donald Talley is requesting a waiver of Rule 1140-5-.01 relevant to obtaining fifteen (15) Live ACPE continuing education hours as he is unable to obtain due to health problems. Dr. Talley submitted proof of sixteen (16) hours. Dr. Robert Mitchell motioned to deny the request; seconded by Mrs. Monica Franklin. Dr. Julie Frazier made a friendly amendment to the motion to **issue the license and allow Dr. Talley a six (6) month extension until August 31, 2005 in which to obtain the fifteen (15) Live ACPE hours**. These Live hours will not count towards the next renewal cycle in 2006. Dr. Robert Mitchell seconded the amendment to the motion. All were in favor and the motion carried.

**JENNIFER DOCKERY, DPH**  
**MOORE AND KING PHARMACY**  
**1501 Riverside Drive #350**  
**Chattanooga, TN 37406**

Dr. Jennifer Dockery is requesting a waiver of Rule 1140-3-.14 (12) relevant to being the Pharmacist in Charge at Moore and King Pharmacy, 1651 Gunbarrel Road, Suite #101A, in Chattanooga, Tennessee, and Moore and King Pharmacy at the same location in Suite #101B. Dr. Robert Mitchell motioned to **approve** the waiver request; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

**KATHRYN PATTERSON, DPH**  
**819 Indian Mound Drive**  
**McMinnville, TN 37110**

Dr. Kathryn Patterson is requesting an extension of time to obtain the fifteen (15) Live ACPE continuing education hours for the renewal of her license in June 30, 2006. Dr. Patterson's future husband will remain in

Germany for the duration of his enlistment approximately one to two years and she is unable to attend the courses offered now due to her work schedule. The Board took no action on Dr. Patterson's request and stated to ask in a more appropriate timeframe if CE's are unattainable.

#### **SYLVESTER EZEABASILI, DPH – REQUESTS TRANSFER OF MICHIGAN LICENSE BY RECIPROCITY NASHVILLE, TN**

Dr. Sylvester Ezeabasili appeared before the Board to request that the Tennessee Board of Pharmacy accept the transfer of his Michigan license by reciprocity. In August, 2003, Dr. Ezeabasili submitted an application to Tennessee but since he did not have the FPGEC, he was not qualified to be licensed. Dr. Ezeabasili obtained a license in Michigan. Dr. Ezeabasili subsequently passed the TSE after the expiration of his FPGEC application, which is only good for two (2) years. Dr. Ezeabasili is petitioning the Board to allow him to license by reciprocity from Michigan, as he will not be able to obtain the FPGEC certification due to the expiration date of his application. Michigan requires a reciprocity applicant to be licensed for twelve (12) months or more before being eligible for reciprocity. Dr. Ezeabasili obtained his Michigan license in March, 2003 and practiced for about six months; and is currently employed at Consolidated Mail Order Pharmacy (CMOP), a federal entity in Murfreesboro, Tennessee, for approximately two (2) months. Dr. Julie Frazier **motioned to table the request for reciprocity until March, 2005** and Dr. Ezeabasili will not be required to appear; seconded by Mrs. Monica Franklin. President Reggie Dilliard stated Dr. Ezeabasili may appear if he desires on Tuesday, March 15, 2005 at 9:00 a.m.

#### **DIRECTOR'S REPORT**

#### **NORTH CAROLINA BOARD OF PHARMACY CONSCIENCE CONCERNS IN PHARMACIST DECISIONS CLAUSE**

The North Carolina Board of Pharmacy issued a statement whereas a pharmacist has the right to avoid being complicit in behavior that is inconsistent with his or her morals or ethics and may object to providing a medication for a patient. The pharmacist should take proactive measures so as not to obstruct a patient's right to obtain their medication. The North Carolina Board of Pharmacy notes that although pharmacists have a right to avoid moral or ethical conflict, they do not have a right to obstruct otherwise legitimate prescription dispensing or delivery solely on the basis of conscientious objection.

Tennessee Board of Pharmacy  
January 18, 2005

**STATE OF TENNESSEE**

**SENATE BILL #76 - PHARMACIST FREEDOM OF CONSCIENCE ACT**

Director Kendall Lynch noted Senate Bill #76 was filed for introduction on January 31, 2005 by Senator Raymond Finney relevant to amending T.C.A., Title 63, Chapter 10, to enact the "Pharmacist Freedom of Conscience Act." The Act would allow a pharmacist who objects to filling a prescription on the grounds that it violates his or her ethical or religious principles, and who has stated such a conscientious objection in writing to his or her supervisor shall not be required to fill the prescription. Any pharmacist refusing to fill such a prescription may not be disciplined by any administrative authority.

**TPA MIDYEAR MEETING**

**MARCH 7 - 8, 2005**

**DOUBLETREE HOTEL**

**NASHVILLE, TN**

Director Kendall Lynch advised that the Department would not be reimbursing the members who anticipate attending the Tennessee Pharmacist Association Mid-Year Meeting on March 7–8, 2005, in Nashville, Tennessee.

**DEA INTERIM POLICY STATEMENT - MULTIPLE CS-II'S PRESCRIPTIONS**

Director Kendall Lynch stated on November 16, 2004, the Drug Enforcement Administration published an "Interim Policy Statement" in the Federal Register titled "Dispensing of Controlled Substances for the Treatment of Pain." According to the statement, DEA cited that a physician may not prepare multiple prescriptions on the same day with instructions to fill on different dates. This is a DEA issue, not the Tennessee Board of Pharmacy.

**JURISPRUDENCE EXAMINATION**

**MEMPHIS, TN**

The Jurisprudence exam has been scheduled for June 2, 2005 for the graduates of the University of Tennessee College of Pharmacy in Memphis, Tennessee.

**NATIONAL ASSOCIATION OF BOARDS OF PHARMACY - NAPLEX CONTRACT**

Director Lynch advised that the NAPLEX Contract will be due for renewal at the end of this fiscal year (June 30, 2005) and will run concurrently with the MPJE contract. Both of the contracts have been forwarded to the proper authorities for approval. The effective date for the contracts to begin is July 1, 2005.

Tennessee Board of Pharmacy  
January 18, 2005

**NATIONAL ASSOCIATION OF BOARDS OF PHARMACY ANNUAL MEETING  
MAY 21 – 24, 2005  
NEW ORLEANS, LA**

The National Association of Boards of Pharmacy Annual Meeting will be held on May 21 - 24, 2005, in New Orleans, Louisiana. Director Kendall Lynch stated in the past, the policy of the Board has been to send the newest board member, Dr. Todd Bess, to the meeting.

**NATIONAL ASSOCIATION OF BOARDS OF PHARMACY - COMMITTEE/TASK FORCE VOLUNTEERS**

Director Kendall Lynch stated NABP is seeking volunteers from its active member's board of pharmacy to serve on the Association's 2005 - '06 committees and task forces. Interested board members are encouraged to submit a letter of interest and a current resume to NABP.

**CONTROLLED SUBSTANCE MONITORING DATABASE**

Director Kendall Lynch stated in early December, 2004, he and Assistant Commissioner Robert Gowan represented the Department of Commerce and Insurance, Regulatory Boards at the National Alliance for Model State Drug Laws in Alexandria, Virginia. The Division has prepared a twenty (20) page Grant, which includes performance measures and outcomes for the controlled substance monitoring database, which was submitted to the U. S. Department of Justice on January 14, 2005. Director Lynch commented on Mr. John Moore with the Information Systems Division and Ms. Kolleen Jeffery, who spent a tremendous amount of time on this project in addition to her regular assignments. The U. S. Department of Justice provided a \$50,000 grant to Finance and Administration and those funds will need to be redirected to the Board of Pharmacy. The Board of Pharmacy has provided \$250,000 for the hard and software and hopefully in May, 2005 the Board will receive funds from the Harold Rogers Foundation. July, 2005, is the target date for the collection of data and that will enable the Division to start reporting in January, 2006.

**LEGAL REPORT/COMPLAINTS**

**1. Case No.: L04-PHR-RBS-200421015**

During a routine compliance inspection of the pharmacy on September 29, 2004, the investigator found the pharmacy to be dirty and unkempt, which prompted the Board staff to initiate a complaint against the Respondent. On September 29, 2004, the Respondent was given thirty (30) days to clean up the pharmacy. On October 28, 2004, a consumer complaint was filed alleging that the Respondent has been illegally filling and refilling prescriptions for controlled substances for at least one (1) patient with a drug problem and that this illegal activity may have contributed to his death. Investigator re-visited the pharmacy on December 5, 2004, to follow up on the dirty and cluttered pharmacy and to investigate the consumer complaint. The records obtained

pursuant to this investigation revealed that the Respondent filled at least one hundred and ninety (190) forged prescriptions for Schedule II, III and IV controlled substances from January 1, 2003 to December 1, 2004 for four (4) different patients, all family members. Investigator contacted the prescribing physician who stated that he has not authorized any prescriptions for any of the four (4) patients since January 1, 2002. Investigation also revealed that patient profiles for two (2) of the patients showed that the Respondent filled prescriptions for similar drugs the same day, one (1) day apart, from different prescribers and for cash and insurance reimbursement, indicating that drug utilization reviews were not done on the patient.

*Previous complaints: DPh: (1/02, dirty pharmacy, \$1,000.00 civil penalty)  
Pharmacy: Same as above.*

**Recommendation: Formal Hearing (Consent Order for Revocation)**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**2. Case No.: L04-PHR-RBS-200420477**

The Complainant alleges that the Respondent pharmacy is filling Schedule II Controlled Substance prescriptions prior to physician authorization. Investigation was requested to obtain records and statements. The records submitted with the complaint show that six (6) prescriptions were written on May 12, 2004. two (2) were written for Patient #1 (Oxycontin 40 mg, 240 tablets; Lorcet 10/650, 150 tablets) indicating that the prescriptions should not be dispensed before May 19, 2004; two (2) prescriptions were written for Patient #2 (Oxycontin 40 mg, 180 tablets; Percocet 10/650, 90 tablets), indicating that the prescriptions should not be dispensed before May 19, 2004; two (2) prescriptions written for Patient #3 (Oxycontin 80 mg, 240 tablets; Actiq 800 mg, 180 tablets, indicating that the prescriptions should not be dispensed before May 19, 2004.

Investigation revealed that the Respondent filled the prescriptions on May 15<sup>th</sup>, May 18<sup>th</sup>, and May 16<sup>th</sup> respectively. Investigation revealed that the Respondent wrote on the back of the prescriptions that on May 14, 2004, she telephoned the prescriber at the request of the patient due to an illness in the family and the prescriber approved the early refill on this occasion.

Additional records submitted by the Complainant indicate that there were four (4) prescriptions written on June 4, 2004 for two (2) different patients for Oxycontin 40 mg, 180 tablets; Percocet 10/650, 120 tablets and Oxycontin 40 mg 240 tablets; Lorcet 10/650, 150 tablets. Complainant alleges that these prescriptions were filled on June 20, 2004, when the prescriptions state indicate that the medications should not be dispensed before June 19, 2004. Investigation confirmed that the prescriptions were written on June 4, 2004 and indicate that they should not be dispensed until June 19, 2004; however, investigation also revealed that the prescriptions were only entered into the computer on June 10, 2004, but were not filled until June 19, 2004, as directed.

**Recommendation: Dismissal**

Dr. Sheila Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

**3. Case No.: L04-PHR-RBS-200420297**

The complaint alleges that the Respondent, unlicensed online Canadian pharmacy has dispensed controlled substances to a Tennessee resident. The medications obtained were Alprazolam 120 x 1mg and Tadalafil 4 x 20mg. The medication was not accompanied by any dispensing label containing directions, physician's name, pharmacy name, directions for use or date of dispensing. Also, the medication was not dispensed through a storefront in Tennessee. All attempts to locate an address for the Respondent were unsuccessful.



**Recommendation: Refer to Food and Drug Administration**

Dr. Robert Shutt motioned to **accept counsel's recommendation**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

**4. Case No.: L04-PHR-RBS-200418088**

The complaint alleges that the Respondent is facilitating the sale and dispensing of prescription drugs from Canada to Tennessee residents. The Respondent is out of business.

**Recommendation: Closure**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

**5. Case No.: L04-PHR-RBS-200421170**

The Complainant, a pharmacist, alleges that another pharmacist refused to give him a copy of a patient's prescription after the patient called the Complainant's pharmacy requesting a compound. Respondent states that he did refuse to give the Complainant the patient's prescription because there were no more refills left on it making it no longer valid. Respondent states that he told the Complainant that he should call the patient's physician to obtain another prescription because that is what he would have to do in this situation.

*Previous complaints: DPh: None  
Pharmacy: None*

**Recommendation: Letter of Instruction for violation of 1140-3-.03(7) (b).**

Dr. Julie Frazier motioned to **dismiss the complaint and to please be mindful of Rule 1140-3-.03 (7) (b)**. Dr. Sheila Mitchell seconded the motion. There were five (5) Ayes; one (1) Nay. The motion carried.

**6. Case No.: L04-PHR-RBS-200421149**

The Complainant alleges that it took longer than the duration of fifteen (15) minutes in which to fill her husband's prescriptions, when she was told it would take fifteen (15) minutes. Complainant alleges that when she was told to wait an additional ten (10) minutes for the prescriptions, the Respondent conducted two (2) personal phone calls. Complainant also alleges that during her wait, she witnessed the Respondent rudely addressing a patient about the availability of flu shots and that she would only give flu shots to her patients.

The Respondent states that the technician told the Complainant that the wait would be fifteen (15) minutes. The technician indicates a part of the response to this complaint that he told the Complainant that the wait would be fifteen (15) to twenty (20) minutes. The Respondent states that the phone calls witnessed by the Complainant were most likely business related that may have seemed personal in nature due to her good relationships with her patients and other health care practitioners. Respondent also denies being rude to the other patient about the availability of flu shots and denying anyone a flu shot. Respondent states that she was trying to determine if the patient was a high risk patient; persons who were not patients were asked to have their physician call to establish their high risk status.

*Previous complaints: DPh: None  
Pharmacy: None*

**Recommendation: Dismissal**

Dr. Robert Shutt motioned to **dismiss** the complaint; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

**7. Case No.: L04-PHR-RBS-200421168**

The Complainant alleges that the Respondent, registered technician, was involved with the diversion or theft of controlled substances. The DEA 106 form was submitted and shows a loss of 400 tablets of Lortab. An investigation into this matter revealed that the Respondent resigned from her position two (2) days before the theft was discovered and that there were no eyewitnesses, CCTV tape or any documentation linking the Respondent to the loss.

**Recommendation: Dismissal**

Dr. Sheila Mitchell motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**8. Case No.: L04-PHR-RBS-200421744**

The Complainant alleges that the Respondent was terminated from her position as pharmacy technician because of theft of approximately 1,200 Hydrocodone/APAP 10/500 and 500 Hydrocodone/APAP 10/325 for her own personal use. Respondent admits in a written statement to the theft of Hydrocodone over a period of six (6) months by taking the bottles off of the shelf and putting them in her purse.

**Recommendation: Formal Hearing (Consent Order for Revocation)**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**9. Case No.: L04-PHR-RBS-200421745**

The Complainant, registered technician, alleges that the Respondent diverted controlled substances. The Respondent admitted to taking 277 tablets of Hydrocodone 7.5/500 and 200 tablets of Hydrocodone 10/500. The Respondent also admitted to giving the pills to a friend because she needed the money. Respondent admitted to handing the tablets to a friend at the drive-thru window. Respondent was also observed on CCTV removing Hydrocodone from the shelf and pouring it into a bottle.

**Recommendation: Formal Hearing (Consent Order for Revocation)**

Dr. Todd Bess motioned to **accept counsel's recommendation**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

**10. Case No.: L04-PHR-RBS-200421070**

The Complainant alleges that the Respondent incorrectly filled his prescriptions for Diovan and Bextra with Lipitor and Amaryl. The Complainant had five (5) prescriptions filled at the same time, namely Diovan, Bextra, Lipitor, folic acid and Amaryl. None of these prescriptions were misfilled. However, when the Complainant's wife went to pick up the medications, two (2) of them were denied by the Complainant's insurance (Bextra and Lipitor), so pharmacy staff removed them from the bag. Instead of the cashier giving the Complainant the remaining three (3) prescriptions, the cashier only gave him the Bextra and Lipitor, which were to be held for later billing.

*Previous complaints: DPh: None  
Pharmacy: None*

**Recommendation: Letter of Instruction about having a cashier perform a technician duty. Have PIC review policy and procedures and require these tasks to be performed by a technician instead of a cashier.**

Dr. Robert Mitchell motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**11. Case No.: L04-PHR-RBS-200421695**

The Complainant alleges that the for approximately two (2) years, the Respondent, a registered technician, has been taking prescription drugs (including controlled substances) for approximately two (2) years from the pharmacy where she was employed. The Respondent admitted to the theft in a written statement and said that the medications were for personal use.

**Recommendation: Formal Hearing (Consent Order for Revocation)**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

**12. Case No.: L04-PHR-RBS-200421013**

The Complainant alleges that the following errors occurred at the pharmacy relative to his mother's prescriptions: (1). A prescription (drug name not identified) dated February 19, 2004 with one (1) refill remaining was transferred from one (1) pharmacy to another as if it had been written on August 20, 2004. Complainant alleges that this was in violation of the six (6) month limit. The pharmacy that received the prescription refilled the February 19, 2004 prescription; (2). A prescription for Hydrocodone was filled and refilled at pharmacy A. When the prescription was transferred from pharmacy A to pharmacy B, it was transferred with a refill when there was no refill left on the prescription. As a result of this error, the Complainant alleges that his mother was dismissed from a pain management program because of trying to fill a prescription that was a suspected forgery.

The Respondent (PIC) states that the prescription dated February 19, 2004 was entered into the pharmacy system on February 27, 2004, but never filled with an expiration date of August 27, 2004; it was within the six (6) month limit when it was transferred on August 20, 2004.

In the second instance, the pharmacy attempted to fill the prescription for Hydrocodone on July 21, 2004, but it was rejected as being too soon so it was put on file in the computer and placed on the box for future filling on July 23, 2004. On July 23, 2004, the pharmacist treated the file prescription as a new one and did not check for the prescription on file in the computer and assigned it a new prescription number, so the prescription was entered twice in the pharmacy computer. The prescription was later transferred to another pharmacy and the patient was provided with an "extra" refill.

*Previous complaints: DPh: None  
Pharmacy: None*

**Recommendation: Letter of Warning to PIC to review dispensing procedures with staff.**

Dr. Sheila Mitchell motioned to **accept counsel recommendation**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

**13. Case No.: L04-PHR-RBS-200421014**

The Complainant alleges that she went eight (8) months without her hormone replacement therapy because the pharmacy forgot to refill her medication. Complainant alleges that as a result, she experienced severe headaches, tension and nervousness. Complainant alleges that she told the pharmacy that she wanted her prescriptions to be automatically refilled because she suffered from short term memory loss. Complainant also alleges that the pharmacy failed to fill her prescription for Buspar. The Respondent states that the automatic refill feature can be activated by both the patient by computer or by the pharmacy at the direction of the patient. Respondent states that she reviewed the patient's profile and discovered that a prescription for her hormone prescription had been called in and not placed on automatic refill by pharmacy staff; although the Complainant

states that she put her prescriptions on automatic refill, the pharmacy can't tell if the Complainant did it or not. Respondent states that she has a current list of all of the Complainant's medication and put them all on auto refill.

Two issues: Whether the Respondent should receive disciplinary action or non-disciplinary action (Letter of Warning, Instruction) for a feature that is not required by law. Although the automatic refill feature is not required by law, should the Respondent receive disciplinary action or non-disciplinary action since they do offer the feature and should therefore be responsible for ensuring that refills get on the system.

*Previous complaints: DPh (PIC): 11/99, misfill, LOI*  
*Pharmacy: None*

**Recommendation: Discretion of Board**

Dr. Sheila Mitchell motioned to **dismiss**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

**14. Case No.: L04-PHR-RBS-200421215**

The Complainant alleges that the Respondent refused to fill four (4) prescriptions for two (2) patients who had undergone Mesotherapy. The prescriptions were written for fifteen (15) tablets of Lortab 7.5 mg, six (6) Compazine 10 mg for patient number 1. Patient number 2 had prescriptions for twelve (12) Lortab 7.5mg and six (6) Compazine. Complainant alleges that the Respondent stated that she refused to fill these prescriptions "because of the doctor. He's the Phen-Fen doctor and I won't fill any of his prescriptions." The Respondent admits that she refused to fill the prescriptions and that the basis for her refusal was the doctor's history of dispensing or writing prescriptions for Phen-Fen and that the doctor, at one time, actively promoted himself as a diet specialist.

*Previous complaints: DPh:*  
*Pharmacy:*

**Recommendation: Letter of Warning**

Dr. Robert Mitchell motioned to **dismiss** the complaint; seconded by Dr. Sheila Mitchell. There were five (5) Ayes; one (1) Nay. The motion carried.

**15. Case No.: L04-PHR-RBS-200420784**

The Complainant alleges that the Respondent, a registered technician, diverted and stole prescriptions drugs, including controlled substances, from the pharmacy where he was employed. he Respondent was arrested and charged with sixty-seven (67) counts of obtaining controlled substances by fraud, thirty-three (33) counts of obtaining legend drugs by fraud, thirteen (13) counts of insurance fraud, one (1) count of theft over \$10,000.00 and five (5) counts of conspiracy to distribute narcotics. The controlled substances were comprised of a total of 8,580 solid dosage units of Hydrocodone in various strengths. The legend drugs that were stolen or diverted included Carisoprodol, Fioricet, Zocor, Neurontin, Ciprofloxacin, Ceftin, Cefzil, Zoloft, Lotrel, Zofran, Imitrex, Abilify, Xeloda and Zyvox. In addition to the theft of the medications, a senior citizen discount program was credited with 10% of the purchases which was redeemed for other non-prescription merchandise from the pharmacy. The Respondent and the Respondent's co-conspirators signed admission statements.

**Recommendation: Formal Hearing (Consent Order for Revocation)**

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

**16. Case No.: L04-PHR-RBS-200419309**

The Complainant alleges that her twelve (12) year old child's prescription for Prelone Syrup (Prednisolone 15mg/5ml) had incorrect directions on the label. The prescription stated "Take 2 ½ teaspoonfuls four (4) times a day for five (5) days." However, the physician's directions were "Take 2 ½ teaspoonfuls daily for five (5) days with food." The Complainant states that the patient consumed four (4) doses of the medication and experienced sweating, vomiting, and stomach aches. The Complainant states that she picked up the prescription on October 2, 2003. When she brought the patient to the doctor on January 3, 2004, the patient's blood sugar level was 1000 and diagnosed a diabetic. Complainant attributes the patient's diabetes to the consumption of the incorrect dosage of Prelone. The prescription was hand written and the Respondent states that she and the technician both read to prescription to say "q.i.d."

*Previous complaints: DPh: None*

*Technician: None*

*Pharmacy: 2/97, counseling, LOR; 7/93, illegal substitution, dismiss*

**Recommendation: Letter of Warning to DPh**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

**17. Case No.: L04-PHR-RBS-200419176**

Complaint was initiated by Board staff since investigator observed four (4) technicians being supervised by a single pharmacist. Investigator observed all of the technicians performing technician duties according to Board rules. In response to the complaint, the PIC states that one (1) of the technicians was returning prescriptions that had not been picked up, back to stock. Respondent asserts that this is not a violation since the technician was not directly involved with the dispensing process. Rule 1140-2-.02(p) states that a technician duty is to "retrieve and transport drugs and devices and related materials to and from approved areas."

*Previous complaints: DPh: 1/97, improper disposal of a controlled substance, LOW, 1 yr. probation)*

*Pharmacy: None*

**Recommendation: Letter of Instruction**

Dr. Sheila Mitchell motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**18. Case No.: L01-PHR-RBS-2001100196**

The complaint was initiated by Board staff after a compliance inspection revealed problems with key possession, improperly labeled repackaged medications, apparent failure to document drug utilization reviews, filled prescriptions for Didrex and Tenuate written by a DO. Investigation into this matter revealed that key problem was corrected immediately; pharmacist explained that the technicians had keys to let in the relief pharmacist. Pharmacy also became compliant with the repackaging and labeling requirements. Regarding the allegation that DUR were not being performed on patients who received large doses of Hydrocodone APAP, the pharmacist indicated that he was in regular contact with the physician. Pharmacy also corrected the problem of filling prescriptions for the DO.

Several follow-up visits to the pharmacy indicate that the pharmacy has remained compliant; the most recent compliance inspection was performed on October, 2004.

*Previous complaints: DPh: None*

*Pharmacy: 12/98, lock on gate violations, dismiss)*

**Recommendation: Dismissal**

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

**19. Case No.: L04-PHR-RBS-200418283**

The Complainant alleges that the Respondent, mail-order pharmacy failed to fill a prescription for Coumadin 5 mg and sent a prescription for Verapamil SR 180 mg that was not ordered. The incorrect prescription was not consumed by the patient. The PIC responded to the complaint and stated that the prescription for Coumadin 5 mg was not filled because a computer prompt stated that it was too soon to be paid by the patient's insurance company. The prescription was tagged and filled at a later date. The prescription for Verapamil was incorrectly entered by a pharmacy representative. Once the pharmacy was notified of the error, the patient was contacted and the medication was destroyed.

*Previous complaints: DPh (PIC): None  
Pharmacy: None*

**Recommendation: Letter of Warning to pharmacy and PIC**

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

**20. Case No.: L04-PIC-RBS-200419068**

The complaint alleges that the Respondent, a registered technician, stole Hydrocodone tablets from the pharmacy where she was employed as a technician. Respondent admitted to the theft of approximately twenty-five (25) to thirty (30) Hydrocodone/APAP 7.5/500 tablets over a period of five (5) to six (6) months. The Respondent admitted that she took most of the tablets for her personal use, but admitted to selling approximately ten (10) tablets to other persons. The DEA 106 form noted a loss of about one hundred (100) tablets along with some other Schedule II, III and IV drugs. The incident was reported to the police and her employment was terminated.

**Recommendation: Formal Hearing (Consent Order for Revocation)**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

**21. Case No.: L05-PHR-RBS-200500084**

The complaint alleges that the Respondent stole controlled substances from the pharmacy where she was employed as a technician. Respondent admitted to the theft of Phentermine, various strengths over a period of approximately fourteen (14) months for personal use. The DEA 106 form submitted showed a shortage of differing strengths of Phentermine of approximately 6,720 dosage units. The Respondent admitted in writing to the theft stating that she would steal a handful of capsules about four (4) times a week. The Respondent agreed to restitution and was terminated; the theft was reported to the TBI.

**Recommendation: Formal Hearing (Consent Order for Revocation)**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**22. Case No.: L04-PHR-RBS-200421615**

The complaint alleges that the Respondent stole controlled substances from the pharmacy where he worked as a technician. The Respondent admitted to the theft in a written statement to the theft of approximately 2,680 various solid dosage units of Schedule III controlled substances, specifically, Hydrocodone for personal use

over a period of ten (10) months, beginning January, 2004. The Respondent agreed to restitution in the amount of \$2,308.05; Respondent was also terminated and arrested.

**Recommendation: Formal Hearing (Consent Order for Revocation)**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

**23. Case No.: L04-PHR-RBS-200419818**

The complaint alleges that the Respondent is operating a store front facilitating the importation of Canadian drugs and as such is engaging in the unlicensed practice of pharmacy. An investigation into this matter revealed that the investigator was able to obtain Synthroid through this store front. Investigator dropped off the prescription and later received 1 x 100 Synthroid 100 mcg; the label on the container showed that the prescription was filled by a Canadian pharmacy.

**Recommendation: Formal Hearing for unlicensed conduct.**

Dr. Robert Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

**24. Case No.: L00-PHR-RBS-200005803**

The complaint alleges that the Respondent has been consuming medications without a prescription while she has been on probation with the Board. The Respondent was originally placed on probation because the Respondent admitted to taking Hydrocodone from the pharmacy where she was employed. Respondent submitted to a substance evaluation and later recanted her admission to the theft because of her depression. The evaluation concluded that the Respondent was not addicted and was diagnosed as suffering from depression. Respondent agreed to enter into a Consent Order for probation for 1 year admitted to "incapacity to practice with reasonable skill and confidence."

A review of the Respondent's prescription history shows that prescriptions for Propoxyphene, varied dosages were filled on September 3, 2003, January 26, 2004, October 14, 2004, and November 12, 2004. However, urine screens performed on September 4, 2003, September 12, 2003, February 2, 2004, May 25, 2004 and August 13, 2004 were all positive for Propoxyphene. Also, a review of the prescription history shows that the Respondent has not had a prescription for Ultram since March, 2003; however, during a urine screen conducted on May 25, 2004, the Respondent was positive for Tramadol.

**Recommendation: Formal Hearing**

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

**JAMES ALSTON OWEN, DPH – REQUEST FOR REINSTATEMENT OF LICENSE  
COVINGTON, TN**

Dr. James Owens appeared before the Board to request the reinstatement of his pharmacist license. Advocating on his behalf were Dr. Steve Davis, Dr. Steve Jones with TPRN and Mr. Eric Amburgey with Cornerstone. Dr. Owens was admitted to Charter and treated for depression and possible impairment. On April 28, 2004, Dr. Owens entered Cresthaven and surrendered his license. Dr. Owens stated he complied with the requirements of the treatment programs and the 90/90 will be met after today, January 18, 2005. Dr. Steve

Davis noted Dr. Owens has been compliant with the TPRN requirements and is able to handle situations more appropriately. Mr. Amburgey stated Dr. Owens is very humble and wanted to do the right thing. Dr. Owens has the support of his parents. After board discussion, Dr. Julie Frazier motioned:

1. Respondent does hereby agree to the reinstatement of license number **8405** with the following probationary conditions. Said probation shall remain in effect for a period of five (5) years, from **January 18, 2005 to January 18, 2010.**
  - a. The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b)
  - b. The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, Mike Nollner, MD, except in the case of an emergency or upon a proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary physician each time the Respondent changes primary physicians;
  - c. The Respondent shall not obtain or attempt to obtain any prescriptions in the Respondent's name for any legend drugs, controlled substances or devices containing same from a physician other than the Respondent's primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
  - d. The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;
  - e. The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);
  - f. The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, such as the Tennessee Pharmacists Recovery Network for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have a valid prescription or the sampling



indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;

- g. The Respondent shall comply with all of the terms and conditions of the extended aftercare contract he or she entered into with Tennessee Pharmacists Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office;
- h. The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years, however, after a period of two (2) years, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a "floater" for a period of three (3) years, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board;
- i. If the license has been inactive, delinquent, suspended or revoked:
  - i. **Less than one (1) year, the pharmacist shall:**
  - ii. Provide written notice requesting an active license;
  - iii. Satisfy all past due continuing pharmaceutical education; and
  - iv. Pay all cumulative license renewal fees and any applicable penalties.

Dr. Robert Shutt seconded the motion. Dr. Sheila Mitchell recused herself. The motion carried.

**ROBERT MCLEAN, DPH – REQUEST FOR REINSTATEMENT OF LICENSE  
GRAY, TN**

Dr. Robert McLean appeared along with advocates Dr. Kenny Archer, Dr. Edwin Bills and Dr. Raymond Frederick with the Tennessee Pharmacist Recovery Network, to request the reinstatement of his pharmacist license. Director Kendall Lynch stated in April, 2003, Dr. McLean admitted to the theft of Darvocet, Ultram, and Robitussin AC for the purpose of self-medicating due to serious medical problems, as he did not have the time

to go to the doctor. Dr. McLean was arrested and charged with theft of property over \$500, a felony. The charges were reduced to a misdemeanor theft and he paid a \$25 fine plus Court costs. Dr. McLean sought treatment from a pain clinic and is currently under a physician's care for his medical issues. Dr. McLean recently went to Cornerstone and it was recommended he stay for treatment. In May, 2004 the Board recommended a formal hearing or the surrender of Dr. McLean's license. Dr. Kenny Archer stated Dr. McLean completed his treatment at Cornerstone and the 90/90 meetings. Dr. Edwin Bills stated Dr. McLean was compliant with TPRN recommendations and Dr. Raymond Frederick advised he attends all the meetings and is ready to return to the practice of pharmacy. After board discussion, Dr. Sheila Mitchell motioned:

1. Respondent does hereby agree to the reinstatement of license number **3289** with the following probationary conditions. Said probation shall remain in effect for a period of five (5) years, from **January 18, 2005 to January 18, 2010.**
  - a. The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b).
  - b. The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, Paul Brown, MD, except in the case of an emergency or upon a proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary physician each time the Respondent changes primary physicians;
  - c. The Respondent shall not obtain or attempt to obtain any prescriptions in the Respondent's name for any legend drugs, controlled substances or devices containing same from a physician other than the Respondent's primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
  - d. The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;
  - e. The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);

- f. The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, such as the Tennessee Pharmacists Recovery Network for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have a valid prescription or the sampling indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;
- g. The Respondent shall comply with all of the terms and conditions of the extended aftercare contract he or she entered into with Tennessee Pharmacists Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office;
- h. The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years, however, after a period of two (2) years, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a "floater" for a period of three (3) years, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board;
- (i) If the license has been inactive, delinquent, suspended or revoked:
  - (i) **Less than one (1) year, the pharmacist shall:**
    - I. Provide written notice requesting an active license;
    - II. Satisfy all past due continuing pharmaceutical education; and
    - III. Pay all cumulative license renewal fees and any applicable penalties.

Dr. Julie Frazier seconded the motion. All were in favor and the motion carried.

**BARBARA PORTEOUS, DPH – REQUEST FOR REINSTATEMENT OF LICENSE  
GRAY, TN**

Dr. Barbara Porteous appeared before the Board of Pharmacy to request the reinstatement of her pharmacist license. Advocating on her behalf were Dr. Edwin Bills and Dr. Kenny Archer with TPRN and Mr. Eric Amburgey with Cornerstone. Director Kendall Lynch advised the Board on June 23, 2004, a Consent Order was executed for the surrender of Dr. Porteous' license. Dr. Edwin Bills stated Dr. Porteous was compliant with the recommendations of TPRN. Mr. Eric Amburgey commented on her honesty relative to the treatment program and being prompt to the meetings. Dr. Kenny Archer also advocated for her to return to the practice of pharmacy. Dr. Porteous' support network consists of her husband, son, and mother. Dr. Porteous stated she is taking one day at a time now and does not wish to work more than 30 hours a week. After board discussion, Dr. Robert Mitchell motioned to:

1. Respondent does hereby agree to the reinstatement of license number **5060** with the following probationary conditions. Said probation shall remain in effect for a period of five (5) years, from **January 18, 2005 to January 18, 2010.**
  - a. The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b).
  - b. The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, Angela Merryfield, MD, except in the case of an emergency or upon a proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary physician each time the Respondent changes primary physicians;
  - c. The Respondent shall not obtain or attempt to obtain any prescriptions in the Respondent's name for any legend drugs, controlled substances or devices containing same from a physician other than the Respondent's primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
  - d. The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;

- e. The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);
  - f. The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, such as the Tennessee Pharmacists Recovery Network for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have a valid prescription or the sampling indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;
  - g. The Respondent shall comply with all of the terms and conditions of the extended aftercare contract he or she entered into with Tennessee Pharmacists Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office;
  - h. The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years, however, after a period of two (2) years, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a "floater" for a period of three (3) years, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board;
- (i) If the license has been inactive, delinquent, suspended or revoked:
- (i) Less than one (1) year, the pharmacist shall:**
    - I. Provide written notice requesting an active license;
    - II. Satisfy all past due continuing pharmaceutical education; and
    - III. Pay all cumulative license renewal fees and any applicable penalties.

Dr. Julie Frazier seconded the motion. All were in favor and the motion carried.

**SAMUEL SMITH, DPH – REQUEST FOR REINSTATEMENT OF LICENSE  
KNOXVILLE, TN**

Dr. Samuel Smith appeared before the Board to request the reinstatement of his pharmacist license along with advocates, Dr. Edwin Bills, Dr. Raymond Frederick with the Tennessee Pharmacist Recovery Network and Mr. Eric Amburgey with Cornerstone. Dr. Raymond Frederick advocates on behalf of Dr. Smith to allow him to return to the practice of pharmacy. Mr. Eric Amburgey stated Dr. Smith will go to the extreme for everyone and has made tremendous progress. Dr. Smith was released from Cornerstone on June 15, 2004 and attends A/A, Caduceus and Aftercare meetings. Dr. Smith's support group will be available if required. After board discussion, Dr. Julie Frazier motioned to:

1. Respondent does hereby agree to the reinstatement of license number **3060** with the following probationary conditions. Said probation shall remain in effect for a period of five (5) years, from **January 18, 2005 to January 18, 2010.**
  - a. The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b).
  - b. The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, John Bushore, MD, except in the case of an emergency or upon a proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary physician each time the Respondent changes primary physicians;
  - c. The Respondent shall not obtain or attempt to obtain any prescriptions in the Respondent's name for any legend drugs, controlled substances or devices containing same from a physician other than the Respondent's primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
  - d. The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;

- e. The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);
- f. The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, such as the Tennessee Pharmacists Recovery Network for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have a valid prescription or the sampling indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended; The Respondent shall comply with all of the terms and conditions of the extended aftercare contract he or she entered into with Tennessee Pharmacists Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office;
- (h) The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years, however, after a period of two (2) years, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a "floater" for a period of three (3) years, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board;
- (i) If the license has been inactive, delinquent, suspended or revoked:
  - (ii) **One (1) year to not more than five (5) consecutive years, the pharmacist shall:**
    - I. Provide written notice requesting an active license;
    - II. Satisfy all past due continuing pharmaceutical education;
    - III. Successfully complete the jurisprudence examination;

- IV. Pay all cumulative license renewal fees and any applicable penalties;
- V. Complete a period of pharmacy internship in Tennessee.
  - a. From one (1) year to not more than three (3) consecutive years, one hundred sixty (160) hours within ninety (90) consecutive days;

Dr. Robert Shutt seconded the motion. All were in favor and the motion carried

**DANNY ALEXANDER, DPH – REQUEST FOR REINSTATEMENT OF LICENSE  
MARYVILLE, TN**

Dr. Danny Alexander appeared before the Board to request the reinstatement of his pharmacist license. Advocates in attendance from TPRN were Dr. Raymond Frederick, Dr. Kenny Archer and Dr. Edwin Bills. In July, 2004, Dr. Alexander entered Willingway Hospital to seek medical treatment due to the amount of medications he was being prescribed. Dr. Lynch stated Dr. Alexander surrendered his license in November, 2004. Dr. Lynch noted Dr. Alexander owns his own pharmacy in Lenoir City and he is the pharmacist-in-charge. Dr. Raymond Frederick stated Dr. Alexander is able to ask for assistance and has additional personnel at the pharmacy. Dr. Kenny Archer expressed interest in the independent pharmacies relevant to being the owner of the business and the number of hours worked can be extreme. Dr. Archer stated Dr. Alexander is compliant with TPRN requirements. Dr. Edwin Bills stated Dr. Alexander has done well in the program. Dr. Alexander's support network consists of his wife and daughter. After board discussion, Dr. Julie Frazier motioned to:

1. Respondent does hereby agree to the reinstatement of license number **5245** with the following probationary conditions. Said probation shall remain in effect for a period of five (5) years, from **January 18, 2005 to January 18, 2010.**
  - a. The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b).
  - b. The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, Peter O'Choa, MD, except in the case of an emergency or upon a proper referral from the Respondent's primary physician. The



- Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary physician each time the Respondent changes primary physicians;
- c. The Respondent shall not obtain or attempt to obtain any prescriptions in the Respondent's name for any legend drugs, controlled substances or devices containing same from a physician other than the Respondent's primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
  - d. The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;
  - e. The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);
  - f. The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, such as the Tennessee Pharmacists Recovery Network for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have a valid prescription or the sampling indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;
  - g. The Respondent shall comply with all of the terms and conditions of the extended aftercare contract he or she entered into with Tennessee Pharmacists Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office;
  - h. The Respondent shall not work as a "floater" for a period of three (3) years, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board; The Respondent is subject to the Board's quarterly

inventory with controlled substance inventory if necessary, plus perpetual inventory for as long as Dr. Alexander is on probation.

- i. If the license has been inactive, delinquent, suspended or revoked:

**(i) Less than one (1) year, the pharmacist shall:**

- I. Provide written notice requesting an active license;
- II. Satisfy all past due continuing pharmaceutical education; and
- III. Pay all cumulative license renewal fees and any applicable penalties.

Dr. Sheila Mitchell seconded the motion. All were in favor and the motion carried.

**MIDDLE TENNESSEE MENTAL HEALTH INSTITUTE'S  
OPERATION OF ITS MINI PHARMACY  
Tennessee Department of Mental Health and Developmental Disabilities  
Kristi M. Faulkner, Esq.**

Director Kendall Lynch received a request from Middle Tennessee Mental Health Institute's (MTMHI) legal counsel, Ms. Kristi Faulkner, relevant to the hospital's operation of its "mini pharmacy" to determine whether it is compliant with Rule 1140-4-.14 (1), regarding the pharmacy being open after closing hours. Dr. Julie Frazier motioned that the policy #810 provided between the pharmacy and the nursing staff of MTMHI regarding Board of Pharmacy Rule 1140-4-.14, the pharmacist-in-charge is in accordance with our rules and information furnished by our investigator, Dr. Terry Cannada, it is administering, not dispensing. Mrs. Monica Franklin seconded the motion. All were in favor and the motion carried.

**ADJOURNMENT**

Mrs. Monica Franklin motioned to adjourn the Board of Pharmacy meeting on Tuesday, January 18, 2005 at 4:12 CST; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

Respectfully submitted,

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Reggie Dilliard, President

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Kendall M. Lynch, Director